

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
NORTHERN DIVISION

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UNITED STATES OF AMERICA,  
Plaintiff,

vs.

CRAIG JOHN CHISHOLM  
Defendant.

MEMORANDUM DECISION AND  
ORDER GRANTING THIRD  
MOTION TO CONTINUE TRIAL  
AND EXCLUDING TIME

Case No. 1:10-CR-84 TS

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Defendant moves to continue trial because his counsel was only recently re-appointed to the case. The Court finds that counsel was re-appointed on October 8, 2010 and that the re-appointment was the basis for the last continuance.<sup>1</sup> Because there have been two prior ends-of-justice continuances,<sup>2</sup> the Court set the continuance for a hearing. At the hearing, counsel explained that his client had recently requested that he file a suppression motion. Counsel diligently investigated the basis of that motion and determined that it should be filed. The government stipulates to the continuance in these

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<sup>1</sup>Docket No. 38.

<sup>2</sup>Docket Nos. 28 and 38.

circumstances. Counsel has diligently prepared for trial. However, due to the new information that a suppression motion was warranted, the Court finds that to deny the motion would deny counsel for Defendant the time required for effective trial preparation, taking into account the exercise of due diligence. The Court further finds that the ends of justice served by continuing the trial in this matter outweigh the interest of the public and Defendant in a Speedy Trial. Further, and in the alternative, the Court notes that the time is now tolled due to the filing of the motion to suppress.<sup>3</sup> It is therefore

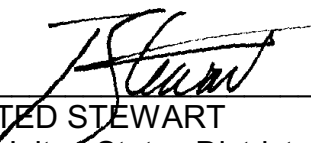
ORDERED that the Defendant's Stipulated Motion to Continue the Jury Trial (Docket No. 38) is GRANTED. It is further

ORDERED that the trial set for March 22, 2011, is VACATED and pursuant to 18 U.S.C. § 3161(H)(8) the time from the filing of the motion to the date of the new trial is excluded from the computation of the time within which the trial must commence pursuant to the Speedy Trial Act. It is further

ORDERED that the trial date will be re-set by separate order after the ruling on the Motion to suppress. Hearing on the motion to suppress was sent by separate notice.

DATED March 29, 2011.

BY THE COURT:

  
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TED STEWART  
United States District Judge

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<sup>3</sup>Docket No. 42.